



SENATOR RUNNER'S WEEK IN REVIEW

A WEEKLY REVIEW THAT WILL KEEP YOU INFORMED AND UP-TO-DATE



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Precautionary Principle

California regulators, environmental advocates, and their legislative collaborators have increasingly come to embrace what is called the "precautionary principle" with regard to risk assessment and management. This philosophy has been prevalent in the European Union and is now methodically becoming embedded in California regulatory policy.

What Is The Precautionary Principle?

The most commonly cited description is:

"When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause-and-effect relationships are not fully established scientifically."

Further, proponents believe the "burden of scientific proof has posed a monumental barrier in the campaign to protect health and the environment." Put simply, the precautionary principle says: "We don't know if this new thing will hurt us. But it might, so let's forbid it." In too many cases this philosophy results in anecdote-based, rather than science-based, regulations.

What Is So Bad About Being Cautious?

Taken to its extreme, precautionary regulation shifts the burden of proof from the regulator, who previously had to demonstrate that a new technology was likely to cause harm, to the innovator, who now must prove that the technology will not cause harm. Of course, any reasonable person would conclude that proving something will never cause harm is almost impossible. The most public use of precaution is Europe's arguably disproportionate reaction to genetically engineered food.

By far the most tragic example of precautionary policies having adverse consequences is the drive by environmentalists to ban DDT. In industrialized nations, DDT helped eliminate malaria completely, and, for many developing nations, DDT is the only affordable method to fight malaria-bearing mosquitoes. According to Harvard University's Amir Attaran, "DDT remains one of the few affordable, effective tools against the mosquitoes that transmit malaria, a plague that sickens at least 300 million and kills over one million, mainly children, in economically underdeveloped areas of the tropics each year. Such a toll is scarcely comprehensible. To visualize it, imagine filling seven Boeing 747's with children, and then crashing those planes, every day."

News of the Week

[Senator Runner Pursues Audit of Parole Violation Policy](#)

[Senator Runner's Bill To Create Distinct District for Antelope Valley Receives Support from Locals](#)

[Team from SpaceShipOne Honored by State Senate](#)

[Bruce McPherson Sworn in as CA's New Secretary of State](#)

[DA Cooley Steps Aside in Bid for Attorney General](#)

[It's Poppy Season in Antelope Valley](#)

[Press Release: Senator Runner is Granted Audit on State's Parole Policy](#)

[Briefing Report: Redistricting](#)

The Trend in California

There are indications that some California policymakers are enamored of the precautionary principle. For example, SB 490 (Lowenthal) would require the California Office of Environmental Health Hazard Assessment (OEHHA) to enter into a cooperative agreement with the Netherlands Ministry of Housing, Spatial Planning, and the Environment to compile a list of substances recognized as posing hazards to human health or the environment. It would also require OEHHA to prepare a report to the Legislature regarding actions taken by the government of the Netherlands to protect their citizens from such hazardous substances. The implications are ominous because the Netherlands has enthusiastically applied the precautionary principle to environmental regulation.

Further, the California Environmental Protection Agency (CalEPA) currently is working to incorporate the precautionary approach into its Environmental Justice program and has established the following objectives:

- Develop a common, objective working definition for precautionary approaches.
- Inventory where/how precautionary approaches are used in CalEPA's environmental programs and any obstacles to limit precautionary actions.
- Evaluate whether additional precautions may be warranted in CalEPA's environmental programs to address or prevent environmental justice.
- Identify reasonable, cost-effective approaches that could be used to prevent or minimize adverse environmental impacts.
- Develop guidance on precautionary approaches and recommend implementation options, including proposals for policy, regulatory, and statutory changes.

The large problem with using precautionary approaches is its definition that "precautionary measures should be taken even if some cause-and-effect relationships are not fully established scientifically." It is important that California's environmental decision makers continue to consider scientific data an essential component for regulatory policy, without sound data we could not move forward on any development, project or technology.

Conclusion

It is fair to say that basing regulatory decisions on the precautionary principle is in vogue among those who tend to favor proactive government regulation of almost all human activities. Although California does appear to be embracing this philosophy, it is important to note that the European Union has retreated from wholeheartedly embracing precautionary regulation. In a January 2004 paper on the subject, the Heritage Foundation compares more recent European Commission views on the precautionary principle and concludes they are similar to those of the United States. Hopefully, it is not too late for these guidelines to be utilized by California.

After all, when it comes to rules, regulations, and laws, it is always much more difficult to undo than to do. We must keep in mind the following:

1. Precaution is a necessary and useful concept, but it is subjective and susceptible to abuse by policymakers for trade purposes.
2. Scientific and procedural safeguards need to be applied to risk management decisions based on precaution.
3. Adoption of precautionary measures should be preceded by objective scientific evaluations, including risk assessment and cost analysis of alternative measures.
4. There are a broad range of precautionary measures, including bans, product restrictions,

education, warning labels, and market-based approaches, and even targeted research programs, that enable decision-makers to better understand a hazard and develop appropriate means of mitigating its effects.

5. Opportunities for public participation – to discuss efficiency, fairness, and other public values – are critical to sound risk management.

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